

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

McNEIL NUTRITIONALS, LLC,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:05-CV-00069-GMS
)	
THE SUGAR ASSOCIATION, THE)	
AMALGAMATED SUGAR COMPANY, et al.)	
)	
Defendants.)	

DECLARATION OF NANCY GAVIN

1. I am Senior Territory Manager for Tate & Lyle Canada Ltd. I submit this Declaration in support of Plaintiff McNeil Nutritional, LLC's opposition to Defendants' Motion to Dismiss.

2. On February 3, 2005, I attended a speech given by Andrew Briscoe, President of the Sugar Association, before the 2005 Annual Meeting of the American Sugarbeet Growers Association at the Hyatt Regency Hotel in San Antonio, Texas.

3. I attended this event as a guest, and registered for the event under my own name as an employee of Tate & Lyle.

4. At the Registration for the Annual Meeting, which was held on Feb 2, 2005, a program was given out to all attendees. A true and correct copy of that program is appended hereto as Exhibit 1.

5. The program lists the title of Mr. Briscoe's speech as "Strategies to Influence Sugar Consumption – Confronting Splenda, Promoting Sugar, and Striving for Accuracy in Labeling."

6. I recorded Mr. Briscoe's speech on a handheld digital voice recorder.

7. I provided the original recording of the speech to Austin McGuire, who I understand forwarded it to Tate and Lyle's counsel, who I understand then provided the recording to counsel for McNeil Nutritionals.

8. Appended hereto as Exhibit 2 is a transcript commissioned by McNeil's counsel of the recording that I made of Mr. Briscoe's speech. To the best of my recollection and knowledge it is a true and accurate transcription of the speech that I attended.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed at Toronto, ON this 27 day of July, 2005.

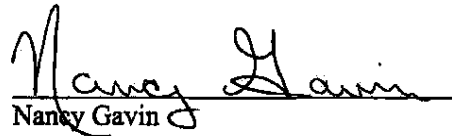

Nancy Gavin

EXHIBIT 1

Executive Committee

Terry Jones, President
Steve Williams, Vice President
Doug Etten, Treasurer

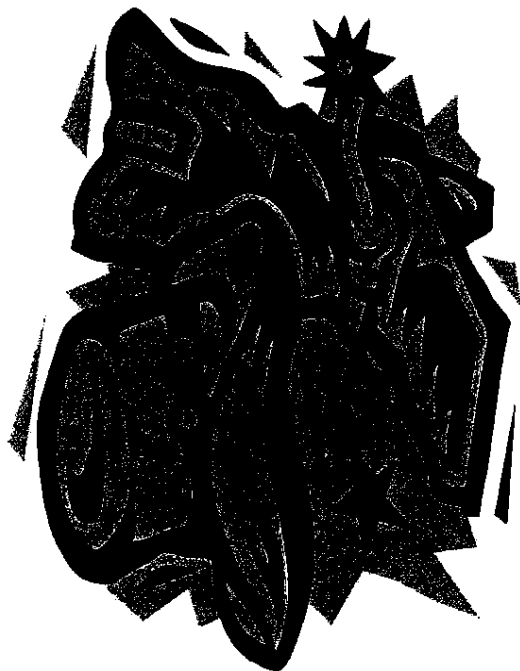
David Bergh	Eugene Meylan
Terry Cayko	Ted Page
Robert Green	Ervin Schlemmer
Steve Martineau	John Snyder
Sheldon Melberg	Alan Welp
Perry Meuleman	Tom Zimmer



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 The Sugar Producer Magazine
 The Sugarbeet Grower Magazine
 Syngenta Seeds, Inc./Hilleshog
 United Phosphorous, Inc.
 Vanderhave Sugarbeet Seed Company



American Sugarbeet Growers Association

presents

2005 Annual Meeting

February 1 - 4
 Hyatt Regency on the Riverwalk
 San Antonio, Texas

◆ Program ◆

◆ Wednesday, Feb. 2 ◆

Registration - Los Rios Foyer

Welcome Receptions

4:30p - 5:30p Garden Terrace

5:30p - 6:30p Regency West

Sponsor: United Phosphorus

Sponsor: Syngenta

◆ Thursday, Feb. 3 ◆

Sponsor: Holly Hybrid and Advanta/Vanderhave

7:30a - 8:00a Breakfast

Regency Center

8:00a - 8:10a Welcome

Terry Jones, ASGA President

8:10a - 8:50a "The 2005 Agriculture Overview"

Jim Wiesemeyer - Informa Economics

◆ What do the elections mean for U.S. agriculture?

◆ Budget reconciliation impact on agriculture

◆ Trade agreements: WTO, Central American Free Trade Agreement and others

9:00a - 12:15a General Session: Domestic Issues

Regency West

9:10a - 9:20a Meeting Opening

Terry Jones, ASGA President

9:20a - 10:00a "The Corn-Sugar Coalition: Working Together for American Sweeteners"

Leon "Len" Corzine - President, National Corn Growers Association

10:00a - 10:30a "The Administration of the U.S. Sugar Policy"

Dan Colacicco - USDA

◆ The Challenges of Balancing Supply and Demand

◆ 2004/2005 Overall Allotment Quantity Update

10:30a - 10:45a Coffee Break

Regency Center

Sponsor: Sugarbeet Grower Magazine

10:45a - 11:45a "Update on Roundup® Ready Sugarbeets"

Members of the Sugar Industry Biotech Council

◆ Moderator: Tom Schwartz, Beet Sugar Development Foundation

◆ Regulatory approval status: Molly Cline, Monsanto

◆ Seed: Joe Dahmer, Betaseed

◆ Sugar/Market: Charles Baker, The Sugar Association and

Bill Smith, Amalgamated Sugar

◆ Co-products: Jim Eichenberger, Midwest Agri

◆ Grower view: Duane Grant, Idaho

11:45a - 12:15p "On the Drawing Board" - Designing a New Long-Term Revenue Insurance Policy

Tim Watts - Watts and Associates, Inc., Billings, MT

12:30p - 2:00p Luncheon

Regency Center

Sponsor: Monsanto

1:00p - 2:00p "Strategies to Influence Sugar Consumption - Confronting

Splenda, Promoting Sugar, and Striving for Accuracy in Labeling"

Andy Briscoe - President, The Sugar Association

Afternoon on your own

2:00p - 3:00p Crop Insurance Discussion Forum (optional)

Pecan Room

5:00p - 7:00p Reception

Regency Center

Sponsor: Bayer CropScience

◆ Friday, Feb. 4 ◆

7:30a - 8:00a Breakfast

Regency Center

Sponsor: Seedex

8:00a - 8:45a "Reforms to the European Sugar Policy"

Otto von Arnold - President, European Beet Growers Association (CIBE)

9:00a - 12:15a General Session: Trade Issues

Regency West

9:15a - 10:00 "Assessing the Threat of Sugar-Containing Products"

Carol Brick-Turin - CBT Consulting

10:00a-10:45a "Sugar's Efforts to Defeat the CAFTA"

Jim Murphy - DCI Group

Jim Duffy - Strother Duffy Strother

10:45a - 11:00a Sucrose Soda Break

Regency Center

Sponsor: DuPont and ASTEC, Inc.

11:00a - Noon "The 2005 Agenda for The World Trade Organization and Free Trade Agreements"

Don Phillips - Trade Advisor, American Sugar Alliance

Noon - 12:15p "Update on the Mexico Sweetener Dispute"

Ray VanDriessche - Mexico Task Force Representative

12:30p - 2:30p President's Luncheon

Regency Center

Sponsor: Bayer CropScience

Recognizing Retiring ASGA Board Members & Sugar Producer of the Year

"Great Laughter, Great Fun!"

Comedian Tim Clue, Chicago, IL

Afternoon on your own

6:30p - 7:30p Gala Reception

Regency Foyer

Sponsor: Betaseed

7:30p - 10:00p Buffet Dinner

Regency Center

EXHIBIT 2

ESQUIRE DEPOSITIONS – NEW YORK

**Andy Briscoe's Speech
ASGA ANNUAL MEETING**

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[START TAPE 1 SIDE A]

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MODERATOR: ...based on the avoidance of carbohydrates creates a real challenge to our industry. We have seen our deliveries drop, costing RSF to millions of dollars the first year in an oversupply to the market.

[Unintelligible] medium for cases for trying to run our business. We have a choice. We could stand on the product line and wait for tolls that Atkins and the other low carb dieters will buy and give it. Or we can be proactive and take the situations head on.

Three of the markets have significantly changed over the years. Competition is tougher, but we still have the best products in the marketplace. You know that and I know that, but does the customer know that and how are they willing to pay for it. For this industry to be able to survive people need to have confidence in sugar as part of a healthy lifestyle.

Our feature today is on the front line in the battle over sugar's heavy

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2 [Unintelligible] market share in the field
3 of sugar. Andy Briscoe as the president and
4 CEO of the Sugar Association. He joined the
5 association in 2002 as a guide to their
6 addressing of public policy, and was named
7 president at the April, 2003 annual meeting
8 of the Board of Directors.

9 Andy was with us last year
10 [Unintelligible] and a lot has happened over
11 this, unfortunately, in the past year. We
12 have honored your [Unintelligible] view on
13 the industry's recent activities within both
14 our products. Let's welcome Andy Briscoe.

15 MR. BRISCOE: Good afternoon. You all
16 keep eating. I'm not in trouble with you
17 before I get into reading the presentation.

18 I guess my first challenge for today is
19 to keep you awake. The reason I asked you
20 to do this, I knew I was asking for it
21 because he said it was after lunch. So, if
22 I catch any of your snoring, I will come up
23 and tag you. But that's my first job.

24 Our biggest challenge is, is to seek
25 dessert. We do believe in the consumption

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2 of dessert as part of a balanced diet. By
3 all means, please, stay your grounds and eat
4 your desert loud if you need to. I will
5 speak as loud as I can. Can the folks in
6 the back hear me? You are okay, all right.
7 I want to keep you awake back there now.

8 All right, the third item on my list of
9 about keeping you honest. I am really
10 excited to be here with you today. When Liz
11 invited me, I got real excited because I
12 prefer the extended zone. I am a pure bred
13 Texan. So, welcome to Texas. How many real
14 Texans do we have? One, hey.

15 All right. This way I can say anything
16 I want to about Texas [Unintelligible]. In
17 fact, did you know that you are underweight
18 and living on meat and potatoes? You can
19 make an effort to make this and break the
20 faith. And you say, how can that be, you
21 know, my instinct is something that you
22 ought to know, and I probably wouldn't be
23 here, you are right.

24 Does anybody know [Unintelligible] the
25 Alamo what happened? He became 36, he

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2 became 36, you are back 116 years ago.
3 Actually, it wasn't [Unintelligible].
4 February of all months, so if you are
5 experiencing the weather you can kind of get
6 a flavor for what those jobs you got 116
7 years ago.

8 And, in fact, Dooly showed up in the
9 Alamo on January 19th, you know, he fortified
10 these places and Andrew Briscoe showed up
11 and he came in from Harrisburg, which is
12 known as Houston now and helped out and then
13 they decided, you know, they needed to
14 create a constitutional convention and they
15 called that as Washington on the route was
16 about a three to four day's horse ride that
17 way.

18 And Andrew Briscoe was called off to the
19 constitutional convention, so he wasn't here
20 at the Alamo when the battle started on
21 February 23rd. That's thirteen days. So,
22 the constitutional convention went on. The
23 constitution was ratified and approved on
24 March 3, down in Lofel and actually March 5th
25 in Santa Ana, and proceeded to basically San

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2 Jasenel and just outside of Harrisburg or
3 Houston now. And that's where Captain
4 Andrew Briscoe helped in the capture of
5 Santa Ana. So there is your history.

6 If I say major in presentation today,
7 with my copy of it, and just put on the back
8 of your business cards, you know, a copy of
9 this slide or a copy of this handout, and
10 bring it up after the presentation, I will
11 be glad to give it to you.

12 And, again, it is a pleasure to be here
13 with you this afternoon, and again, I am
14 going to run through about two days worth of
15 information between now - I am going to try
16 for two o'clock, but bear with me.

17 Hopefully none of you have a 2:15

18 [Unintelligible], but we are going to do our
19 best to give you some good information, some
20 solid information, some new information.

21 Some of you have seen some of these slides
22 before. But if you stay awake, I will
23 guarantee you, the last two slides will get
24 your attention. Okay?

25 Now, with that in mind, I like to get

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2 closer to my audience. Everybody ready?

3 Okay.

4 Some of you have seen this slide before,
5 but this is an eye-opener. Thirty years ago
6 the sweeteners in the marketplace were
7 primarily sugar and honey. Now, we've got
8 more competition than ever before. There is
9 roughly twenty-one other types of sweeteners
10 in the marketplace including sugar alcohol,
11 artificial sweeteners and their abilities.

12 The consumer and the industrial user
13 have more choices than ever before. So,
14 competition, guys and ladies, are more
15 challenging and certainly we need to
16 acknowledge that as an industry.

17 Key issues that we deal with in the
18 Sugar Association in Washington, we are
19 about four blocks from the White House.
20 This doesn't give us any calls. But this
21 just happens to be about cleaning out a fish
22 industry group within a four block area of
23 one our active filters. We interrelate with
24 those food industry groups on a daily basis.

25 Key issues are Splenda, voluntary

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2 [Unintelligible] promotion program, labeling
3 concerns, dietary guidelines, development of
4 external scientific advisory counsel into
5 our scientific external scientific group,
6 advantages for sugar based products, getting
7 the media to use accurate terminology and
8 then defining sucrose, sugar in the
9 marketplace.

10 Obviously, there is not enough time,
11 like I side, I've got about two days worth
12 of information to dump on you, but for the
13 purposes of today's meeting we are going to
14 cover the top story right now. Okay. Bear
15 with me.

16 Splenda, this is a comparison, a
17 molecular comparison. I am not going to
18 have your eyes glazed over here too far. But
19 if you look at it, you see where sugar in
20 the grain set. And those are the key
21 molecules there. Then if you look at the
22 circles over here where actually Chlorine is
23 added to the molecules to give you the
24 sweetness level that Splenda professes which
25 is 600 times sweeter than sugar.

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2 So, the statement that, made from sugar,
3 so it tastes like sugar, and yet Splenda is
4 600 times sweeter than sugar, so how does it
5 to pretend to taste like sugar.

6 We have through board support initiated
7 what you would call a legal fee our
8 initiative. That was approved last
9 September. We are less than six months out
10 from that. And obviously the legal machine
11 is gearing up. We have filed a lawsuit on
12 December 10th against McNeill, Johnson
13 McNeill. And it was really in response to
14 what we felt like had developed over the
15 last six months to a year prior to
16 September.

17 So, the critical component here is now
18 and you have a copy of the press papers in
19 front of you, there are actually five
20 lawsuits against Johnson & Johnson McNeill
21 right now. Two are federal level and three
22 December class actions.

23 You will notice up here, there is one
24 here that says McNeill Splenda versus
25 Verison Equal in Puerto Rico. That was

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2 filed by Splenda and actually just within
3 the last thirty days was withdrawn by
4 Splenda or McNeill. They requested that it
5 be withdrawn. Honestly it is a long way to
6 go to Puerto Rico.

7 The other thing that is not shown here
8 is that there are there federal Trade
9 Commission complaints that have been filed
10 basically over the last thirty days with the
11 same concerns of misleading advertising,
12 misleading consumers, etc.

13 So, there is a lot momentum building,
14 obviously, in the interest of providing
15 consumers accurate information.

16 We have developed in support a website,
17 www.TruthAboutSplenda. And for those that
18 are interested, we got postcards that you
19 can take. I will leave them up here in the
20 front and you can come afterwards and take
21 with you. I suggest to people that you can
22 mail this to the local media, you can hand
23 them out to a friend, but basically it is to
24 support our website, TruthAboutSpendor.Com.
25 Again, getting people to come to this

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2 website so that they will get more
3 information. Most of this information is
4 more of a clearing house. We quote third
5 party charges, we provide information, we
6 hyperlink you to studies or articles that
7 are done, so it is more of a clearing house
8 to us, but it opens your eyes up to the real
9 issues about Splenda.

10 In fact, there is a consumer survey on
11 there that talks about almost 50% of
12 consumers that use Splenda, actually up to
13 50%, you know, the figure is a little bit
14 less, actually believe it is natural.
15 That's one of our biggest issues as far as
16 the lawsuit is concerned.

17 But, again, here are some cards, if you
18 want one or you want more, let us know, put
19 it on the back of you business cards, I want
20 ten or fifteen postcards to carry around in
21 my pocket and give to my friends, send to my
22 relatives or whatever, but they are up here.

23 The website has some interesting
24 generation of quotes from consumers and
25 we've already had about 90 quotes come in

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2 from consumers talking about how they have
3 been fooled, they have been duped. So,
4 again, it is a real tool for us. We have
5 actually had one consumer from Kansas send
6 an email to us saying, they wanted to join
7 our lawsuit and, of course, obviously, they
8 [Unintelligible].

9 These are all independent lawsuits. As
10 you will see, actually, some of the class
11 actions speak to the filing, were actually
12 filed before the DNC filed on December 10th.
13 So, they are totally independent of our
14 action, even though their claims are
15 basically plenty.

16 Okay, let's see. Let me go back. While
17 I've got you here just to follow the way the
18 most interesting quotes. Splenda came out
19 in 2000 roughly, that's when it first hit
20 the marketplace. This is the newest Splenda
21 product, a Splenda sugar blend for the basic
22 product. By weight it is 99% sugar. And so
23 obviously they are trying to gain in taste
24 and functionality. But again, price, it is
25 still a beeper for disciplining in price

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2 products. When retail sugar sells for 42
3 cents retail roughly, Splenda in this
4 package represents about four pounds of
5 sugar works out for \$6.49, \$6.30 to \$7.

6 So, you are talking about, when you
7 really do the math it is about five or six
8 times for a pound of this product. Of
9 course, you use half of this product as
10 well, just to [Unintelligible].

11 So, again they are gaining in
12 functionality, they are gaining in taste by
13 using this product which again is 99% sugar
14 and again consumers are paying a premium
15 price at. And interestingly enough if you
16 look at the calories from the back end; it
17 says it is 10 calories for half a teaspoon.
18 How many calories are in a teaspoon of
19 sugar?

20 VOICES: 15.

21 MR. BRISCOE: 15. So, if you go with a
22 teaspoon of this stuff, you are getting 20
23 calories, right? So, why would you want to
24 pay \$6 to \$7 for something like this and get
25 20 calories per teaspoon and look, if you

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2 used all natural sugar, 15 calories? It
3 doesn't make sense to me, does it?

4 So, again, be aware as a consumer. It is
5 our job certainly to work hard and educate.

6 On the voluntary sugar promotion
7 program, this is something that I think Dale
8 Smith mentioned earlier that there was a
9 vital test panel. But the board and
10 certainly with your support I in September
11 agreed that it was time, it was time for us
12 as an industry to step forward and start
13 promoting our own product.

14 In fact, since 1995, we spent this
15 amount of money, this amount of money, zero
16 dollars on promoting our own product. So,
17 in some ways we deserve to be where we are
18 at. But in other ways we taking action, we
19 are gearing up, we are developing a strong
20 anger and we are looking at the key issues
21 to do this.

22 One of things we did was we did a GALUP
23 survey. We wanted to look at what the
24 issues were relating to sugar and we wanted
25 to know what messages were important and

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2 then we also wanted to know what the
3 strategies were in conveying those messages.

4 Here is a summary of that particular
5 survey, unprompted, and this means you
6 weren't feeding them almost any information.
7 The consumer basically said, sugar it is
8 acknowledged 50% of the time they are being
9 aware of sugar and Splenda was acknowledged
10 this as 30% of the time.

11 When they were prompted, basically
12 provided with names of different types of
13 sweeteners, the awareness level up, sugar
14 went up to 95%, Equal came in second at 82%,
15 Splenda was at 70%.

16 Next was 45% of the consumers have tried
17 Splenda. That's an important figure for us.
18 One of Splendas makers is it is made in
19 chlorine. When you tell a focus group or a
20 group of consumers that it is, in fact, made
21 with chlorine, it is not just made with
22 sugar, so it tastes like sugar, but it is
23 made with sugar and chlorine, so it tastes
24 sweeter. And when you tell them the fact
25 that it is made with chlorine, you see the

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2 bottom in sales.

3 We are not saying it is unhealthy. We
4 are just wanting to provide the true facts
5 as far as what is in the product.

6 Refined sugar versus white sugar, I know
7 you didn't catch it, but I did, but this
8 morning when Charlie Baker, Dr. Baker made a
9 presentation on the biotech panel, he used
10 the term white sugar. He didn't use refined
11 sugar and there is a reason why. I am
12 making this my mission to convince you
13 beginning to stop the use of the word
14 refined, because as we did the focus group,
15 the consumer said, well, it is refined
16 sugar, so it is not natural, right? It is
17 refined. So, it can't be natural.

18 Yet in Europe they use the terminology
19 as white sugar and raw sugar, they don't use
20 refined. So, my challenge to you is to get
21 you to change the way you are behavior for
22 the rest of your lives to get away from the
23 term refined and use white sugar and raw
24 sugar. Of course, convincing the USDA to
25 change terminology and the bureaucracy to do

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2 that is also an uphill challenge, but we
3 like challenges.

4 Consumers overestimate sugar's - the
5 word content. On the average when we asked
6 what they thought it was, the average was 73
7 calories per teaspoon -- 73 calories per
8 teaspoon. Obviously, this group here knows
9 that it is 15 calories per teaspoon, but
10 interestingly enough I was attending one of
11 the sugar industry's annual shareholder's
12 meeting on Finnegan Wine, for
13 [Unintelligible] and wine growers came up.
14 I said, well, did you learn anything from
15 our presentation? He said, yes, I learned
16 it is only fifteen calories per teaspoon, in
17 a teaspoon of sugar. But I am glad.

18 So, everybody in this room, how many
19 calories per teaspoon?

20 VOICES: 15.

21 MR. BRISCOE: Amen. Sugar image, pure
22 natural baking functionality and better
23 parties in our kitchen, in fact, one of the
24 key facts when we told the group, focus
25 group what the true caloric intake of sugar

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2 was, they said, well, why do we need
3 artificial sweeteners if it is only 15
4 calories? Right, you got them. And that
5 will come out obviously in our sugar
6 promotion efforts as well.

7 Okay, again, we reflect that sugar
8 consumption on a caloric basis is 15
9 calories per teaspoon is what defining of
10 the GALUP survey.

11 Other people are defining this. And in
12 our absence, basically, in our void of being
13 in the marketplace and telling people the
14 benefits of sugar, it is all natural, is 15
15 calories, etc., they are actually parsing
16 us. We are letting them define who we are.
17 Some people say sugar is sweet, so pretty
18 much guilt. Some people say sucrose intake
19 was significantly related to breast cancer.

20 Here is a good one, Dr. Perry Grossman,
21 he is a doctor, control stress, don't eat
22 sugar, I am told that's a life saver.

23 So, there are obviously some very strong
24 anti-sugar folks in the world. And we
25 basically are allowing them to say what they

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2 want to. And, you know, all the more reason
3 and the important part of the sugar
4 promotion program so that we are getting our
5 message out to the consumers.

6 Is sugar expendable? Obviously some
7 people would think so. Sugar causes
8 obesity, sugar causes hyperactivity. No
9 sugar added means it is healthier? Does it?
10 Splenda is a natural sweetener like sugar,
11 you know, they are saying that.

12 So, nobody is going to dispel these
13 myths or discuss the benefits of sucrose
14 unless we do. You know, if it is to be, it
15 is up to us.

16 Other industries, they obviously believe
17 in the American [Unintelligible] and of
18 course it hits. There are some industries
19 that believe the only way to achieve success
20 in the marketplace is by brand endeavors,
21 promoting your product. When your product
22 means getting a bigger piece of the pie, but
23 the pie keeps getting smaller.

24 So, again, it is proven by other
25 commodities, the beef folks is up to \$28

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2 million, got to roughly \$800 million in
3 returns. The egg folks got \$15 million, get
4 a 21% increase. And the dairy folks
5 invested \$20 million and got roughly a 4%
6 increase.

7 Right now we have roughly five
8 cooperative groups all being at this point.
9 We've got roughly \$3½ million committed to a
10 campaign for a three year period. We are
11 willing and looking at doing basically a
12 pilot program, a pilot test within two
13 markets probably some time in May. And then
14 our ultimate purpose to roll it out in the
15 regional markets for those who are
16 participating in September or October of
17 this year. That's the general overview of
18 the sugar promotion.

19 Again, at one point in time in history
20 this industry really took action. How many
21 of you were around in 1986? So you were
22 there. Sugar levels we were at 7.7 million
23 tons. And so obviously something needed to
24 be done and this industry picked up the
25 reigns and implemented a sugar promotion

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2 program.

3 The difference between the one that was
4 in '86 and the one we are doing now is they
5 were both voluntary but, again, it was the
6 entire industry in '86 versus this
7 particular campaign is anyone can choose to
8 opt in or opt out, one or the other.

9 But, again, in '86 through 1995, we
10 actually invested an average of \$5 million a
11 year in the promotion of our product. And
12 it proved to be very positive for us. You
13 may or may not see these figures, but the
14 response after ten years, we actually had a
15 19% increase in deliveries. Sounds pretty
16 good, doesn't it, roughly 18% growth a year?

17 If you take the residual, which occurs
18 with all generic campaigns, there is a four
19 year residual that we got out of our
20 promotion and if you include that and you
21 actually increase deliveries by 28% over a
22 fourteen year period. So, again, that is
23 pretty good, it is going in the right
24 direction. When you figure out on a return
25 on investment basis, you are looking at

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2 roughly \$13 return for every \$1 invested for
3 the first ten years. When you actually go
4 into the fourteen year period it is roughly
5 for every dollar we invest here, say \$5
6 million, we got roughly \$19 back. Sounds
7 pretty good, doesn't it? It sounds like a
8 good bet.

9 So, again, it has proven successful for
10 this industry. We don't have to go out and
11 ask other industries whether this will work,
12 does it work? Here are some examples of the
13 after plans that we did. Nobody can ever
14 duplicate a real sugar either. Obviously,
15 they are getting closer.

16 Now, which would you rather have to put
17 on your kids cereal? Now, I want to insert
18 you something here. Everybody, have you all
19 eaten your desert? Are you okay with that?
20 Was it good? Pretty good. Did anybody
21 notice any difference? Anybody notice any
22 difference? No. No different. How many of
23 you noticed the difference? One guy. One
24 guy. Nobody noticed any difference.

25 Well, here is the straight truth, you

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2 have been duped. Half of your desert was
3 made with real sugar. The other half was
4 made with Splenda. So, now the question is,
5 which was which? Mark you want to tell us?
6 Which one was made with Splenda? Oh, he is
7 really astounded here.

8 Now, why was that made with - that was
9 made with what? Oh, you don't know? Anybody
10 else want to take a guess? No.

11 MALE VOICE: It is hard to cut.

12 MR. BRISCOE: I will tell you. You won't
13 have to go out in a stream about this. The
14 piece that was closest to the strawberry was
15 Splenda. The piece with sugar sprinkled on
16 the top was real sugar.

17 Now, what's the point? The point,
18 folks, the competition is tough. The
19 competition is tougher than ever before.
20 And you just proved it. You just proved it.
21 More than ever before we need to realize in
22 the marketplace that we need to believe in
23 our product, we need to support our product
24 more than ever before.

25 I want you to be fired up when you leave

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2 here today, because, let's face it folks,
3 when they talk about the trenches, the
4 trenches are there on the consumption side.
5 Yes, trade is important. Yes, the farm is
6 just as important. But if we don't get it
7 consumed and it is going to be stored and it
8 is going to cost us money to be stored, we
9 are going to have to get loans and it just
10 doesn't make sense at all unless we can we
11 support the increase in consumption. So,
12 that's what the sugar promotion program is
13 all about.

14 Everybody like that example, now that
15 you have eaten it? You've had your chlorine
16 for the day.

17 [Unintelligible]

18 But, more time, I am going to keep you
19 awake, here is the last two slides to wake
20 you up.

21 On the sugar promotion side, if we had
22 continued as an industry to invest in our
23 product - again, these are all projections,
24 but if we had continued to increase in our
25 investments there, the trend is upward and

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2 we would hope we would hopefully be around
3 the 12 billion ton mark, if you follow the
4 trend.

5 Because we stopped, this trend is
6 downward and we approximately ended up
7 between \$8 and \$9 million, is where the
8 trend takes us. However, because in 2004 we
9 chose to take action, the blue bar here
10 actually shows what we hope to achieve in
11 the sugar promotion program.

12 In the first three years, the things
13 that we are going to do by those
14 participants, but we can continue to add
15 people. In fact, we sent letters to even
16 the countries that import sugar into the
17 United States, the forty-one importers, they
18 have a vested interest in keeping the image
19 of sugar positive.

20 So, we will certainly and the resolution
21 that was approved by the board, allow for us
22 to get financial support from those
23 countries as well.

24 Vendors, if you have a vendor that wants
25 to contribute to the sugar promotion

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2 program, we are open to that. That occurred
3 actually during the last promotion. So, we
4 are willing to build the money resources so
5 that we really can do a national rollout at
6 some point in time, we want to prove that
7 generic advertising is a critical component.

8 I am not saying to let it replace your
9 brand advertising. I am saying you need to
10 have both. You really need to have both in
11 the marketplace. You need to be increasing
12 your pie at the same time you are working on
13 the increase in your piece of the pie.

14 On food labeling, here some critical
15 issues, they are coming along. First of
16 all, the elimination of and/or labeling
17 [Unintelligible] we just discussed on there.
18 We are excited about the facts. We finally
19 got FDA to make a decision after twenty
20 years, it took them twenty years to make a
21 decision on two words, love, it is
22 ridiculous.

23 You know, for a guy who takes us to Drug
24 Town and [Unintelligible] issued up.

25 But it actually happened. We sent

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2 letters actually to Coke and Pepsi and the
3 major soft drink companies that have been
4 abusing the use of the term sugar as sucrose
5 on their labels. And we have received
6 responses back in kind. However, at the same
7 time the FDA has been taking enforcement
8 action against those soft drink companies
9 that don't adhere to that.

10 You are saying, well, is this a big
11 deal? Maybe, maybe not. We have been
12 working on it. But again it is in defining
13 what our product is. We are not
14 [Unintelligible] or sugar. We are sugar
15 folks and we need to make sure that the
16 consumers know that sugar is not in some of
17 the major soft drinks and we have been able
18 to do that.

19 The elimination of the use of less sugar
20 nutrient content claim, this is an up and
21 coming thing, that you really need to be
22 sensitive to the fact. I will point out,
23 this is one of the examples, 50% of our
24 sugar in the New Pepsi bench product, there
25 is no sugar in Pepsi Age. So how can they

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2 say that on the front of their packaging,
3 because the FDA has a reg that allows them
4 to.

5 And again there is wars there to get FDA
6 to change the regulation around nutrient
7 content claims. 50% less sugar, reduced
8 sugar, sugar free. Here is the other one,
9 sugar free, just lying in the marketplace.
10 Here is a product; a sugar free product is
11 right here, this peanut, this buttercup,
12 chocolate buttercups. And most of you have
13 probably tasted Reece's Buttercups. This has
14 the real sugar in it, right? This is sugar
15 free. Which one has more calories per cup?
16 Sugar free. What's [Unintelligible].
17 Somebody has seen my presentation before?

18 Sugar Free per cup is 45 calories per
19 cup. 46 calories per cup in the real sugar
20 product. So, what's going on? Food
21 manufacturers are obviously fooling
22 consumers, they are charging of up to a 25%
23 premium price on sugar free products.
24 Consumers think they are getting a healthier
25 product when, in fact, they are obviously

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2 getting ones that will not really help the
3 obesity, the fight against obesity. So,
4 they are being cruel.

5 So, obviously, we have our work cut out
6 for us. We have already had one or two
7 meetings with FDA on the issue and we are
8 doing follow up letters. This one for
9 another meeting, to say this is a real
10 issue, consumers are being misled. And who
11 knows, it might lead to some kind of legal
12 confrontation at some point in time. If
13 that's what takes if somebody - obviously
14 people are not dying because of this, not
15 yet. And obviously when you tie it to the
16 obesity issue, obviously it becomes more
17 critical for the regulatory agencies in
18 Washington.

19 But to become more and more sensitive to
20 what is going on the scores level and also
21 its impact even on the register, the sugar
22 free, less sugar, reduced sugar on cereals,
23 we look at the caloric intake, that score
24 does not change.

25 A couple of articles, you may - you

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2 can't read, from the headline, lower sugar
3 food from are diet traps. This is actually
4 out of Consumer's Report. That comes out in
5 February, I believe, or January. This is
6 from Tufts University, Sugar Free
7 Shortcomings. And actually they include a
8 chart of some of the foods that you look at
9 from a caloric standpoint, you know, the
10 sugar free versus the real sugar, there is
11 not much difference. Maybe ten calories is
12 different.

13 So, again, this is a battle in the
14 consumer marketplace that we obviously, you
15 know, when low carbs went up in 2000, about
16 12%, and now it has reduced down to less
17 than 4%. It went up in three years and then
18 crashed down to roughly here. I feel like
19 in some ways this is the next low carb
20 trend.

21 Food manufacturers are obviously wanting
22 to make money, charge a premium price for
23 all these least sugars that are in a
24 product. And, again, from the standpoint
25 they come out looking good from the

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2 standpoint of fighting obesity, but they are
3 not. They are fairly complacent.

4 One of the other labeling issues that we
5 have is obviously in the early 1990's when
6 the food label, National Education Labeling
7 Act was passed, the terminology that was
8 chosen to use in reference to sugar or
9 sugars, was sugars. A one line item for
10 ketchup basically all four sweeteners and
11 obviously the marketplace has changed, as I
12 have shown you, we've got more sweeteners in
13 the marketplace, four sweeteners in the
14 marketplace, sugar alcohol and
15 [Unintelligible] and they are not being
16 reflected in the food label at this point.

17 So, we have our work cut out for us in
18 getting the term sugar, our product, which
19 has been named in sucrose and the other
20 sweeteners as separated out in some fashion
21 or format to be understood by the consumer.
22 So, we are working real hard to come up with
23 the right terminology and consumer friendly
24 terminology that will help educate consumers
25 on that fact.

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This is a key graph of some of these things, but from an obesity standpoint sugar is not the problem. Sugar is not the problem. Consumption of real sugar, white sugar, over the last thirty years has actually trended downward; it has gone down 40% on a per capita basis from less than 52 pounds per person per year to roughly 43 pounds per person per year.

So if obesity is going up and sugar consumption is going down, how can sugar be the problem as far as obesity? Does it take a rocket scientist to determine that? None of them. But we need to work hard at getting this information out to the media and to nutritionists, doctors, the people that are targeting children as a way to fight obesity.

Interestingly enough we may have more of this sugar free in the marketplace if they had more low carb products than they have more low fat products. Obesity continues to be a major concern. It is not being dealt with obviously in feedings. Look at the

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scientific basis of it and know that portion control is right up there; exercise has to be played in and further assessed.

Okay, here is my commercial. This is my commercial. I told this in all the attachments on the end. This is not the last two slides, by the way. I am ready, I will wake you up. This is the commercial. Certain baby products, we actually have a site that is developed to promote sugar baby products and the three categories are beverages, food and cosmetics, and cosmetics.

This is an article that ran in one of the Errand magazines promoting this. There are two hundred regional bottlers in the United States that still use real sugar for their soft drinks and we want to promote and we want you to know that you can buy their product on line and have them delivered to your doorstep. We don't have anything but sugar based soft drinks in our refrigerator at the Sugar Association. So, if you tell me you want something else, too bad. And I

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2 would like to think that your refrigerators
3 will reflect the same at some point.

4 But again, if it is to be, it is going
5 to be up to us.

6 Now, here is the website. You can go to
7 our website, which is Sugar.Org and there is
8 a hyperlink to the E-Business section of
9 sugar based products. You can click on
10 beverages and we've got about five or six
11 regional bottlers.

12 We want more. If you have a regional
13 bottler in your marketplace and want us to
14 call them up and see if we can hyperlink and
15 promote their product, send me the name with
16 contact information.

17 There is foods, obviously, it is a no
18 brainer, but - and here is the interesting
19 one. Cosmetics. How many of you knew that
20 sugar was used in cosmetics. Those that
21 haven't heard, okay. There is a few.
22 Interestingly enough, this does not account
23 against your allotment. It doesn't count
24 against your allotment. But you can sell
25 all the sugar you want for cosmetic purposes

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2 and it won't be counted against you. How
3 about that? Isn't that great? That's an
4 interesting item.

5 Now, here is the other thing, all the
6 ladies, I need all the ladies to stand up,
7 all the ladies, every one of you, come on?
8 It is not that hard. All the ladies,
9 everybody stand up. Okay. I thought this
10 was going to be hard.

11 I have a sugar based product, which I
12 won't give away. I am here. This is, by
13 the way, a premium product here, I wish we
14 were paid - don't sit down. I wish we got
15 as much a pound as the cosmetic package
16 does, \$58. \$58. But for you and all the
17 guys that are sitting down had haven't
18 gotten their wives or significant other a
19 Valentine's gift, you can go this website
20 and I have already talked to the producers,
21 the manufacturers of these cosmetic products
22 and there is about four or five that you can
23 buy, but it will only cost, the most product
24 only is around \$21 plus shipping. And they
25 have promised me if you order these by

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2 Monday or Tuesday, they will be delivered to
3 you before Thanksgiving, by the 13th.

4 February 13th, you will have your Sure
5 Case cosmetics to impress, to really impress
6 your loved one, right. And you will gain
7 some points, you really will. Now, you are
8 gaining some more points and stars if you
9 take that sugar based body wash or body
10 scrub and show your wife how it works. You
11 will gain on her. You will gain stars. So,
12 by all means, let me encourage you guys -
13 probably none of you probably - have any of
14 you bought your wife anything for
15 Valentine's yet? One.

16 Now, I have already warned my sugar
17 based cosmetic folks that they are going to
18 have a rush on Monday and Tuesday, they are
19 going to meet substantial demands. So,
20 please prove me right, okay.

21 Now, I have to figure out how to get
22 this one product to all these ladies, and
23 the only way I can do it, do any of you all
24 have a birthday in February? Any of you?
25 One? What is your birthday?

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FEMALE VOICE: February 22nd.

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MR. BRISCOE: February 22nd. You know, because it is a Valentine's Day, so can you come up and get your sugar based cosmetics.

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FEMALE VOICE: Thank you, very much.

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MR. BRISCORE: We will find somebody to help you put that on.

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Okay, here is an interesting thing and real numbers are important. And the fact is that for the last four years we have had an increase, this has won a bright spot in sugar delivery, we have had an increase in sugar's sales and deliveries for beverages, for beverages. Let's see, is Jim Weidmeyer in the room somewhere? This is a critical function.

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If you do the equation, actually, we are getting roughly 71,000 tons per year over the last three years. Some people speculate it is for a thousand years, we are only getting into the Generation X wires that are really looking for all natural products and beverages. That's one thing that is driving them.

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We are looking for quality type products. I mean, when was the last time you went into a Starbuck's and paid \$3 for a cup of coffee? Nobody cares about the price. Yet if you order on line by the way it is going to be more expensive because you get a better product. The \$1.55 a bottle normally, plus shipping, so you are paying \$2.25 for a bottle of pop with real sugar, but the quality of taste is obviously there.

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Well rounded, can you see the numbers there, 71,000 tons and if you add, expand that out to dollar figures, it is \$29 million. \$29 million per year increase.

16

Now, we only come in as an association \$30,000 a year promoting the sugar based products. If I gave you \$30,000 and you give me \$29 million back, that's a pretty good deal for me. You'd do that, wouldn't you? Or you give me the \$30,000.

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So, it is real critical again that you help us in this promotion with us. Now, the next two slides are our last two slides. I have to get in uniform for this. Bear with

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2 me for a second.

3 All right, I am uniform. How many of
4 you have played football? How many? Play
5 or like or, you know, we do have a special
6 team coming up and you have read it, right?
7 And so it is important for us to know that
8 obviously sugar can be a part of that, but
9 here is how we are going to parallel it.

10 Let's see, we are going to have the
11 Super Bowl of Sweeteners guys and this is
12 enforceable. We need to realize again
13 competition is tough out there, right?
14 Right? Have I proved that today? It is
15 tough. Yes, there is all the artificial
16 sweeteners out there wanting to part of our
17 marketplace and obviously we need to do a
18 better job.

19 So, what are going to win the Super Bowl
20 of Sweeteners? Anybody got an idea?
21 Anybody got a special game plan or play?

22 MALE VOICE: Put a lock in.

23 MR. BRISCOE: The lock ins. We are lock
24 ins. I like that. That's important. Even
25 Jim this morning said what the - the best

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2 defense is what?

3 MALE VOICE: Beat them.

4 MR. BRISCOE: There is a good lock in.

5 Well, let's see what we can come up with.

6 All right, here we go. We've got these

7 things going here, it is called a sugar

8 promotion program, we confronting Splenda,

9 we've got accuracy in labeling issues we are

10 backing. We are promoting sugar based

11 products. Our running back, back here, the

12 Sugar Association, we are going to get the

13 ball from the center and we are going to use

14 our half backs through member companies and

15 call up, they are going to help us out and

16 the individual growers are really important,

17 they are part of our grassroots. We've got

18 science over here and up here in the end

19 zone for the ball, you've got proactive PR

20 media relations going for the ball.

21 The objective is to spend more time on

22 the offense than on the defense. If you've

23 played football like I have, you don't want

24 to spend a whole lot of time on defense.

25 How do you score? 50 ways you can score

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2 defensive wise, but the main way to score is
3 by being on offense.

4 So, our goal is to be on the offense.
5 Use these techniques, right, deprogram to
6 again move forward and achieve the goal of
7 increased sugar consumption? Can we do
8 that?

9 MALE VOICES: Yes.

10 MR. BRISCOE: Can we do that?

11 MALE VOICE: Yes.

12 MR. BRISCOE: All right, that is our
13 charge for the day.

14 I really appreciate the time be here. I
15 will be open to any questions and do the
16 best I can to respond to it. So, any
17 questions at this point? You can even hit
18 me on the head if you want to? Any
19 questions? Have I been long here?

20 [Unintelligible]

21 MR. BRISCOE: Does the maiden wish the
22 [Unintelligible] Sugar Bowl football game?
23 Let me put that in? I am going to check on
24 it. You know, you are not the first one to
25 ask that question. I didn't give it to you,

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2 but I appreciate it. And Eon Mirrer, our PR
3 director up here has been challenged to get
4 the answer to that and help me solve the
5 problem on how to do that. We haven't come
6 up with quite the answer yet because a
7 minute of advertising for the Sugar Bowl
8 runs \$3 million. So, if you have a
9 checkbook, I will be glad to do that.

10 All right, that's a good question, but,
11 again, it is just a \$3 million price tag and
12 I don't know if anybody in the room is ready
13 to write that check.

14 Any other questions on consumption?
15 Again, it is really important if you don't
16 leave room without us at least showing you
17 that we are really fighting a hard tough
18 battle. We didn't get to where we are
19 tonight, and we are not going to change it
20 overnight, but I believe that at least we're
21 moving in the right direction. We are
22 spending more time on offense than we are on
23 defense right now.

24 Any other questions?

25 MALE VOICE: Maybe we have a suggestion.

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MR. BRISCOE: One suggestion, okay.

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MALE VOICE: [Unintelligible]

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MR. BRISCOE: You know what? If I was

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undressed I would probably get more people.

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But you know what, I will loan you my

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helmet. I've got to have the passion to

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hang in there.

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Thank you, very much.

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[END OF TAPE.]

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C E R T I F I C A T E

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The prior proceedings were transcribed from an

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audio tape and have been transcribed to the

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best of my ability."

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Signature: Anna Arundel

8

Date: March 22, 2005

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of July, 2005, the attached **DECLARATION OF NANCY GAVIN** was served upon the below-named counsel of record at the address and in the manner indicated:

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